

SENATE BILL 107

C3

11r0530
CF 11r1232

By: **Senator Astle**

Introduced and read first time: January 21, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Benefit Exchanges – Establishment and Operation**

3 FOR the purpose of requiring a health benefit exchange to be established as a
4 nonprofit entity; prohibiting an exchange from being established as a
5 governmental agency; establishing the primary purpose of an exchange;
6 requiring an exchange to focus its efforts on carrying out certain exchange
7 functions; prohibiting an exchange from taking on certain functions, providing
8 certain products or services, or soliciting certain business; requiring the
9 Maryland Insurance Commissioner to examine the duties and ensure
10 appropriate regulation of certain persons; establishing certain requirements for
11 the cost of establishing and operating an exchange; requiring the Commissioner
12 and the Secretary of Health and Mental Hygiene, in consultation with certain
13 exchanges, to study and report on utilization of certain private sector resources
14 and certain effects on employment on or before a certain date; defining certain
15 terms; and generally relating to health benefit exchanges.

16 BY adding to

17 Article – Insurance

18 Section 15–2001 and 15–2002 to be under the new subtitle “Subtitle 20. Health
19 Benefit Exchanges”

20 Annotated Code of Maryland

21 (2006 Replacement Volume and 2010 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article – Insurance**

25 **SUBTITLE 20. HEALTH BENEFIT EXCHANGES.**

26 **15–2001.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(B) “EXCHANGE” MEANS ANY ENTITY ESTABLISHED IN THE STATE IN**
4 **ACCORDANCE WITH REQUIREMENTS FOR AN AMERICAN HEALTH BENEFIT**
5 **EXCHANGE OR A SMALL BUSINESS HEALTH OPTIONS PROGRAM UNDER THE**
6 **FEDERAL ACT.**

7 **(C) “FEDERAL ACT” MEANS THE PATIENT PROTECTION AND**
8 **AFFORDABLE CARE ACT, AS AMENDED BY THE FEDERAL HEALTH CARE AND**
9 **EDUCATION RECONCILIATION ACT OF 2010, AND ANY AMENDMENTS TO THE**
10 **ACTS OR FEDERAL REGULATIONS OR GUIDANCE ISSUED UNDER THE ACTS.**

11 **(D) “QUALIFIED HEALTH PLAN” MEANS A HEALTH BENEFIT PLAN THAT**
12 **HAS IN EFFECT A CERTIFICATION THAT THE HEALTH BENEFIT PLAN MEETS THE**
13 **CRITERIA FOR CERTIFICATION DESCRIBED IN § 1311(C) OF THE FEDERAL ACT.**

14 **(E) “QUALIFIED SMALL EMPLOYER” MEANS A SMALL EMPLOYER THAT**
15 **ELECTS TO MAKE ALL OF ITS FULL-TIME EMPLOYEES ELIGIBLE FOR A**
16 **QUALIFIED HEALTH PLAN OFFERED IN THE SMALL GROUP MARKET THROUGH**
17 **AN EXCHANGE.**

18 **15-2002.**

19 **(A) AN EXCHANGE:**

20 **(1) SHALL BE ESTABLISHED AS A NONPROFIT ENTITY; AND**

21 **(2) MAY NOT BE ESTABLISHED AS A GOVERNMENTAL AGENCY.**

22 **(B) THE PRIMARY PURPOSE OF AN EXCHANGE SHALL BE SECURING**
23 **HEALTH CARE COVERAGE FOR INDIVIDUALS WHO DO NOT HAVE COVERAGE.**

24 **(C) AN EXCHANGE:**

25 **(1) SHALL FOCUS ITS EFFORTS ON CARRYING OUT THE**
26 **EXCHANGE FUNCTIONS ESTABLISHED UNDER THE FEDERAL ACT, INCLUDING:**

27 **(i) FACILITATING THE PURCHASE AND SALE OF QUALIFIED**
28 **HEALTH PLANS IN THE INDIVIDUAL MARKET; AND**

1 (II) ASSISTING QUALIFIED SMALL EMPLOYERS IN
2 FACILITATING THE ENROLLMENT OF THEIR EMPLOYEES IN QUALIFIED HEALTH
3 PLANS OFFERED IN THE SMALL GROUP MARKET;

4 (2) MAY NOT TAKE ON FUNCTIONS OR PROVIDE PRODUCTS OR
5 SERVICES THAT ARE NOT DIRECTLY RELATED TO CARRYING OUT THE
6 EXCHANGE FUNCTIONS ESTABLISHED UNDER THE FEDERAL ACT; AND

7 (3) MAY NOT SOLICIT BUSINESS FROM INDIVIDUALS AND SMALL
8 EMPLOYERS THAT ALREADY PARTICIPATE IN THE INDIVIDUAL MARKET OR THE
9 SMALL GROUP MARKET OUTSIDE OF AN EXCHANGE.

10 (D) THE COMMISSIONER SHALL:

11 (1) EXAMINE THE DUTIES OF PERSONS EMPLOYED BY, UNDER
12 CONTRACT WITH, OR OTHERWISE ACTING ON BEHALF OF AN EXCHANGE, THAT
13 RELATE TO THE SALE, SOLICITATION, OR NEGOTIATION OF HEALTH INSURANCE;
14 AND

15 (2) ENSURE APPROPRIATE REGULATION OF THE PERSONS
16 DESCRIBED IN ITEM (1) OF THIS SUBSECTION, INCLUDING REQUIRING A PERSON
17 TO BE LICENSED AS AN INSURANCE PRODUCER IF APPROPRIATE.

18 (E) THE COST OF ESTABLISHING AND OPERATING AN EXCHANGE SHALL
19 BE BORNE BY THE EXCHANGE WITHOUT:

20 (1) ANY PUBLIC FUNDING, EXCEPT GRANTS PROVIDED UNDER
21 THE FEDERAL ACT; OR

22 (2) AN ASSESSMENT OR A USER FEE ON PERSONS THAT DO NOT
23 USE THE EXCHANGE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Insurance
25 Commissioner and the Secretary of Health and Mental Hygiene, in consultation with
26 any exchange established in the State under this Act, shall:

27 (1) conduct a study to:

28 (i) determine how the State may best utilize private sector
29 resources, including third party administrators and similar entities, to establish an
30 efficient and effective exchange that meets the requirements of the Patient Protection
31 and Affordable Care Act, as amended by the federal Health Care and Education
32 Reconciliation Act of 2010, and any amendments to the Acts or federal regulations or
33 guidance issued under the Acts; and

1 (ii) examine the potential effects that an exchange may have on
2 the employment of insurance producers; and

3 (2) report its findings to the Governor and, in accordance with
4 § 2-1246 of the State Government Article, the General Assembly, on or before January
5 1, 2013.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2011.